

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**VICTOR TAMAYO and
BONFILIO AVILES,**

Defendants.

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8:09CR66

ORDER

This matter is before the court on the Motion to Continue Trial (Doc. [53](#)) filed by Victor Tamayo, for the reason that he has retained another attorney. The defendant has not filed an affidavit or declaration regarding speedy trial, as required by [NECrimR](#) 12.1 and/or 12.3. The court finds that this motion should be denied.

The record shows that Victor Tamayo was arraigned on March 5, 2009 and represented by court-appointed counsel, Glenn Shapiro. Mr. Shapiro obtained an extension of time to April 6, 2009 in which to file pretrial motions. Mr. Shapiro was allowed to withdraw on March 26, 2009, at which time Mark Weber was appointed to represent Victor Tamayo. The pretrial motion deadline was eventually extended to April 20, 2009 due to the filing of a superseding indictment. The pretrial motion was once more extended, to May 15, 2009, at the request of Victor Tamayo.

No pretrial motions were filed by either defendant. Thus, by order entered May 18, 2009 (Doc. 51), trial was set for June 23, 2009. Considering the record as a whole, including the continuances already granted to Victor Tamayo, the court finds ends of justice would not be served by granting the requested continuance.

IT IS ORDERED that the Motion to Continue Trial (Doc. 53) filed by Victor Tamayo is denied (1) for failure to comply with [NECrimR](#) 12.1 and/or 12.3 and (2) because the court finds ends of justice would not be served by granting the requested continuance.

Pursuant to [NECrimR](#) 57.2, a party may appeal this order by filing an "Appeal of Magistrate Judge's Order" no later than **June 15, 2009**.

DATED June 10, 2009.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**